

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 20277
Fumihito HATAYAMA	:	Confirmation Number: 6694
Application No.: 10/671,446	:	Tech Center Art Unit: 2625
Filed: September 29, 2003	:	Examiner: Dhingra, Pawandeep
For: PRINTING CONTROL METHOD, IMAGE DATA CREATING APPARATUS, AND DATA FOR IMAGE CREATION		

TRANSMITTAL OF CORRECTED APPEAL BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Appeal Brief dated June 26, 2008, having a one-month shortened statutory period for response set to expire on July 26, 2008, reconsideration is respectfully requested in view of the enclosed Corrected Appeal Brief. The Appeal Brief fee of \$510.00 was previously charged to Deposit Account 500417. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. 1.17 and 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Hosang Lee

Limited Recognition No. L00,295

**Please recognize our Customer No. 20277 as
our correspondence address.**

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 SAB:HL
Facsimile: 202.756.8087
Date: **July 15, 2008**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 20277
	:	
Fumihito HATAYAMA	:	Confirmation Number: 6694
	:	
Application No.: 10/671,446	:	Tech Center Art Unit: 2625
	:	
Filed: September 29, 2003	:	Examiner: Dhingra, Pawandeep

For: PRINTING CONTROL METHOD, IMAGE DATA CREATING APPARATUS, AND
DATA FOR IMAGE CREATION

CORRECTED APPEAL BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed April 18, 2008,
wherein Appellant appeals from the Primary Examiner's rejection of claims 1, 3-7 and 9-12.

Real Party In Interest

This application is assigned to DAINIPPON SCREEN MFG. CO., LTD. by assignment
recorded on September 29, 2004, at Reel 014548, Frame 0574.

Related Appeals and Interferences

Appellant is unaware of any related Appeal or Interference.

Status of Claims

1. Claims cancelled: 2, 8 and 13-14
2. Claims pending: 1, 3-7 and 9-12
3. Claims rejected: 1, 3-7 and 9-12
4. Claims on appeal: 1, 3-7 and 9-12

Status of Amendments

An Amendment was filed on February 14, 2008, in response to the Final Office Action dated January 3, 2008, but has not been entered.

Summary of Claimed Subject Matter

The subject matter disclosed in the present application is related to a printing control apparatus and a printing control method for controlling color tones of prints during printing operations. The present application addresses, for example, the following problems:

There has been a demand for a printing control method, an image data creating apparatus and data for image creation, for producing prints with an appropriate color tone control by assuring reliable communication of the intents of color tone control from a preceding process to a next process. Furthermore, there is a demand for performing a complicated operation to make a small number of prints for trial, to check the prints with an operator of a preceding process, and then to produce a large number of prints not to deviate from the intents of color tone control of the operator of the preceding process. (page 2, lines 12-25 of the written description)

An aspect of the invention, per claim 1, is a printing control method for controlling color tones of prints in time of a printing operation having an image data creating process (1, 2 in FIG.

1) for creating image data for making the prints, and a printing process (3 in FIG. 1) for performing printing based on the image data created in the image data creating process. The image data creating process (1, 2 in FIG. 1) includes a representative point setting step (S12 in FIG. 2 and page 7, line 8-page 8, line 4 of the written description) and for setting representative points (P1-P7 in FIG. 7) with respect to areas on the image data corresponding to respective ink key areas of a printing machine (30 in FIG. 1), for use in controlling color tones in images to be printed, and a representative point information storing step (S14 in FIG. 2 and page 8, line 14-page 9, line 1 of the written description) for storing representative point information including information on the positions of said representative points set (P1-P7) with respect to areas on the image data corresponding to respective ink key areas of a printing machine (30 in FIG. 1). The printing process (3) includes an information receiving step (S31 in FIG. 4 and page 12, lines 15-24 of the written description) for receiving said representative point information along with said image data, a printing execution step (S34 in FIG. 4 and page 15, lines 7-11 of the written description) for executing printing based on said image data, and a color tone controlling step (S36 in FIG. 4 and page 15, lines 18-25 of the written description) for controlling an ink feeding rate, based on the differences between the color tones at the representative points and the target color tones, by comparing image data of the prints produced in said printing by comparing image data of the prints produced in said printing executing step and said representative points.

Another aspect of the invention, per claim 7, is an image data creating apparatus for creating image data for producing prints, comprising representative point setting means (10 in FIG. 1 and page 7, line 8-page 8, line 4 of the written description) for setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine (30 in FIG. 1), for use in controlling color tones in images to be printed, and

information storage means (page 8, line 24-page 9, line 1 of the written description) for storing, along with said image data, representative point information including information on positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine (page 8, line 15-page 9, line 1 of the written description). In the controlling color tones, an ink feeding rate is controlled, based on differences between color tones at the representative points and target color tones, by comparing image data of the prints produced and said representative points (page 15, lines 8-11 of the written description).

Grounds of Rejection To Be Reviewed By Appeal

1. Claims 7 and 9-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Akiyama (EP 0 322 879 A2, hereinafter “Akiyama”) in view of Doherty et al. (U.S. Patent No. 5,224,421, hereinafter “Doherty”).

2. Claims 1 and 3-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shiraishi (U.S. Publication No. 2001/0038388, hereinafter “Shiraishi”), in view of Akiyama further in view of Doherty.

3. Claims 5-6 and 11-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Shiraishi, in view of Akiyama further in view of Doherty, further in view of Muramoto (U.S. Patent No. 6,978,536, hereinafter “Muramoto”).

ArgumentRejections Under 35 U.S.C. § 103(a) over Akiyama in view of DohertyClaims 7 and 9-10The Examiner's position

The Examiner asserted that Akiyama discloses a representative point setting means for setting representative points (reference points P1-P5 in figure 3) for use in controlling color tones in images (column 1 ,lines 1-30) and information storage means for storing, along with said image data, representative point information including information on positions of said representative points (column 1, lines 49-53, column 4, lines 8-14, column 5, lines 32-7). The Examiner acknowledged that Akiyama does not teach means setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine for use in controlling color tones in images to be printed; storage means for storing representative information including information on positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine and, in said controlling color tones, an ink feed rate is controlled, based on differences between color tones at the representative points and target color tones, by comparing image data of the prints produced and said representative points. The Examiner, however, averred that Doherty discloses representative points setting means (figure 1) with respect to areas on the image data corresponding to respective ink key areas of a printing machine (respective points are set with respect to the areas on the image data (printed product) corresponding to respective ink key areas of a printing machine (printing proof produced by the printing machine), abstract; column 3, line 4-column 5, line 64; claims 1, 7-12) for use in controlling color tones in images to be printed (column 1, lines 12-21 and column 6, lines 3-7); storage means (storage device, block 1 in fig. 1) for storing representative information including information on positions of said

representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine (abstract and column 3, line 4-column 5, line 64) and, in said controlling color tones, an ink feed rate is controlled (blocks 4 and 10 in fig. 1), based on differences between color tones at the representative points (respective points on the printed product) and target color tones, by comparing image data of the prints produced and said representative points (comparison and adjustments of the image data of the produced prints can be done by an operator or an automatic process, figure 1; abstract; column 3, line 4-column 6, line 7). The Examiner maintained that it would have been obvious to one of ordinary skill in the art at the time the invention to modify the image processing and correction system of Akiyama to include the color adjustment and controlling techniques as taught by Doherty for the benefit of having an image processing system in which “the printing process is continuously monitored and the positions of the ink keys adjusted as needed to maintain sufficient quality of the printed products” as taught by Doherty at column 6, lines 3-7.

Appellant's Position

Legal precedent is well developed on the subject of obviousness in the application of a rejection under 35 U.S.C. §103. It is incumbent upon the examiner to factually support a conclusion of obviousness. *In re Mayne*, 104 F.3d 1339, 41 USPQ2d 1451 (Fed. Cir. 1997); *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The examiner must provide a reason why one having ordinary skill in the art would have been led to modify a particular prior art reference in a particular manner to arrive at a particular claimed invention; *Ecolochem Inc. v. Southern California Edison, Co.* 227 F.3d 361, 56 USPQ2d 1065 (Fed. Cir. 2000); *In re Rouffet*, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998). *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985); *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988); *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007).

Appellant submits that the Examiner has not established a *prima facie* basis to deny patentability to the claimed invention under 35 U.S.C. §103 for lack of the requisite factual basis. The combination of Akiyama and Doherty fails to teach the representative points setting means and the information storage means, as required by claim 7.

The Examiner admitted that “Akiyama fails to explicitly disclose representative points setting means for setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine for use in controlling color tones in images to be printed.” However, the Examiner asserted that Doherty discloses representative points setting means with respect to areas on the image data corresponding to respective ink key areas of a printing machine for use in controlling color tones in images to be printed, which is described as “the density spectrum $D_M(\lambda)$ is measured on printed product at respective points corresponding to those points which were previously measured on the printing copy.” Doherty sets respective points on the printed product corresponding to those points on the print copy and measures density spectra of the respective points on the printed product and measuring points of the ink zones on the printed product. (column 5, lines 26-40 and Blocks 7 and 8 in figure 1) The respective points are set **not on area on the image data, but on the printed product**. In addition, the respective points are **not related to respective ink key areas of a printing machine, but corresponds to the points on the print copy**. (emphasis added) In contrast, claimed invention, per claim 7, requires “representative points setting means” to “set[ting]

representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine for use in controlling color tones in images to be printed.”

The Examiner further asserted that Akiyama fails to explicitly disclose storage means for storing representative information including information on positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine.” However, the Examiner averred that Doherty discloses “storage means for storing representative information including information on positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine” with reference to the storage device in Block 1 and descriptions on column 3, line 4-column 5, line 64. As addressed above, Doherty’s respective points are set **not on area on the image data, but on the printed product** and the respective points are **not related to respective ink key areas of a printing machine, but corresponds to the points on the print copy**. Therefore, Doherty’s storage device cannot store “information on positions of the representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine.”

Furthermore, the Examiner asserted that Akiyama fails to explicitly disclose “in said controlling color tones, an ink feed rate is controlled, based on differences between color tones at the representative points and target color tones, by comparing image data of the prints produced and said representative points.” The Examiner, however, averred that Doherty discloses “in said controlling color tones, an ink feed rate is controlled, based on differences between color tones at the representative points and target color tones, by comparing image data of the prints produced and said representative points.” Doherty compares the adjustment values X_K' , X_C' , X_M' and X_Y' for ink feed in the individual printing units with the respective reference values X_K , X_C , X_M , X_Y' ,

which are determined depending upon press design and printed ink film, to adjust positions of ink keys. (column 4, lines 51-57 and column 5, lines 49-63) **The adjustment values X_K' , X_C' , X_M' and X_Y' and the reference values X_K , X_C , X_M , X_Y do not represent color tones, but an operational vector component which is obtained from the relationship between the measured density spectrum $D_T(\lambda)$ and the density spectrum $P(\lambda)$ of the color of the paper.** (Equations(1)) In contrast, in the claimed invention, per claim 7, the ink feed rate is controlled based on differences between color tones at the representative points and target color tones.

Based on foregoing, Appellant submits that the combination of Akiyama and Doherty does not teach an image data creating apparatus for creating image data for producing prints including all the limitations recited in independent claim 7.

Claim 9 is dependent upon claim 7 and requires the following:

9. An image data creating apparatus as defined in claim 7, wherein said representative point information stored in said information storage means is corrected.

Appellant submits that the combination of Akiyama and Doherty does not teach these additional requirements, nor have they been addressed in the Office Action. It is submitted, therefore, that the rejection of claim 9 is not viable for both the lack of disclosure in the applied references of all requirements of parent claim 7, and for additionally recited elements.

Claim 10 is dependent upon claim 7 and requires the following:

10. An image data creating apparatus as defined in claim 7, further comprising: image data correcting means for correcting said image data so that color tones at the representative points agree with target color tones; wherein said information storage means is arranged to store said representative point information including said information on the positions of said representative points along with the image data corrected by said image data correcting means.

Appellant submits that the combination of Akiyama and Doherty does not teach these additional requirements, nor have they been addressed in the Office Action. It is submitted, therefore, that the rejection of claim 10 is not viable for both the lack of disclosure in the applied references of all requirements of parent claim 7, and for additionally recited elements.

Rejections Under 35 U.S.C. § 103(a) over Shiraishi, in view of Akiyama and Doherty

Claims 1 and 3-4

Examiner's Position

The Examiner acknowledged that Shiraishi and Akiyama do not teach a representative point setting step for setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine for use in controlling color tones in images to be printed; a representative point information storing step for storing representative information including information on positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine; and a color tone controlling step for controlling an ink feed rate based on differences between color tones at the representative points and target color tones, by comparing image data of the prints produced and said representative points. The Examiner, however, averred that Doherty discloses a representative point setting step for setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine (representative points are set with respect to the areas on the image data (printed product) corresponding to respective ink

key areas of a printing machine (printing proof produced by the printing machine), abstract; column 3, line 4-column 5, line 64; claims 1, 7-12) for use in controlling color tones in images to be printed (column 1, lines 12-21 and column 6, lines 3-7); a representative point information storing step for storing representative information including information on positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine (abstract and column 3, line 4-column 5, line 64) and a color tone controlling step for controlling an ink feed rate(blocks 4 and 10 in fig. 1) based on differences between color tones at the representative points (respective points on the printed product) and target color tones, by comparing image data of the prints produced and said representative points (comparison and adjustments of the image data of the produced prints can be done by an operator or an automatic process, figure 1; abstract; column 3, line 4-column 6, line 7). The Examiner maintained that it would have been obvious to one of ordinary skill in the art at the time the invention to modify the method and device for managing print colors as disclosed by Shiraishi to include a density indicator as taught by Akiyama, and the color adjustment and controlling techniques as taught by Doherty for the benefit of having a “density indicator for indicating the optical density level at a reference point on an image through an image correction process such as a color correction and a tone correction” as taught by Akiyama at column 1, lines 2-7, and having an image processing system in which “the printing process is continuously monitored and the positions of the ink keys adjusted as needed to maintain sufficient quality of the printed products” as taught by Doherty at column 6, lines 3-7.

Appellant's position

Claim 1 is an independent claim and reproduced as follows:

1. A printing control method for controlling color tones of prints in time of a printing operation having an image data creating process for creating image data for making the prints, and a printing process for performing printing based on the image data created in the image data creating process, wherein said image data creating process includes:
a representative point setting step for setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine, for use in controlling color tones in images to be printed; and
a representative point information storing step for storing representative point information including information on the positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine; and
said printing process includes:
an information receiving step for receiving said representative point information along with said image data;
a printing execution step for executing printing based on said image data; and
a color tone controlling step for controlling an ink feeding rate, based on the differences between the color tones at the representative points and the target color tones, by comparing image data of the prints produced in said printing by comparing image data of the prints produced in said printing executing step and said representative points.

Claim 1 recites a printing control method as recited in independent claim 7. Accordingly, Appellant incorporates the arguments made in response to the rejection of independent claim 7. Appellant submits that the combination of Shiraishi, Akiyama and Doherty does not teach a printing control method including all the limitations recited in independent claim 7.

Claim 3 is dependent upon claim 1 and requires the following:

3. A printing control method as defined in claim 1, wherein said printing process is carried out for correcting the representative point information stored in said image data creating process.

Appellant submits that the combination of Shiraishi, Akiyama and Doherty does not teach these additional requirements, nor have they been addressed in the Office Action. It is submitted, therefore, that the rejection of claim 3 is not viable for both the lack of disclosure in

the applied references of all requirements of parent claim 1, and for additionally recited elements.

Claim 4 is dependent upon claim 1 and requires the following:

4. A printing control method as defined in claim 1, further comprising: an image data correcting process for correcting said image data so that the color tones at the representative points set in said representative point setting step agree with target color tones; wherein said information receiving step is executed to receive said representative point information along with the image data corrected in said image data correcting process.

Appellant submits that the combination of Shiraishi, Akiyama and Doherty does not teach these additional requirements, nor have they been addressed in the Office Action. It is submitted, therefore, that the rejection of claim 4 is not viable for both the lack of disclosure in the applied references of all requirements of parent claim 1, and for additionally recited elements.

Rejections Under 35 U.S.C. § 103(a) over Shiraishi, in view of Akiyama, Doherty and Muramoto

Claims 5-6 and 11-12

The Examiner's position

With respect to claims 5 and 11, the Examiner admitted that Shiraishi fails to disclose a PDL data creating step for creating PDL data; and a platemaking data creating step for creating platemaking data based on said PDL data created in said PDL data creating step, said PDL data creating step and said platemaking data creating step using common representative point information wherein said platemaking data creating step is carried out for correcting the representative point information used in said PDL data creating step. The Examiner, however, asserted that Muramoto discloses the PDL data creating step for creating PDL data, and the platemaking data creating step for creating platemaking data based on said PDL data created in

said PDL data creating step, wherein said platemaking data creating step is carried out for correcting the representative point information used in said PDL data creating step(the generated PDL data is supplied to Raster Image Processor for creating image data for printing or platemaking purposes; column 1, lines 17-20, and column 2, lines 55-65), and that Akiyama discloses the PDL data creating step (corrected color density data is PDL data; column 4, lines 15-56) and the platemaking data creating step(the corrected color density data converted into YMCK data is the Platemaking data; column 4, line 57-column 5, line 25) use common representative point information (column 4, line 15-column, line 41). The Examiner maintained that it would have been obvious to one of ordinary skill in the art at the time the invention to modify the method and device for managing print colors as disclosed by Shiraishi to include a density indicator as taught by Akiyama, the color adjustment and controlling techniques as taught by Doherty, and apparatus for adjusting tone as taught by Muramoto for the benefit of having a “density indicator for indicating the optical density level at a reference point on an image through an image correction process such as a color correction and a tone correction” as taught by Akiyama at column 1, lines 2-7, and having an image processing system in which “the printing process is continuously monitored and the positions of the ink keys adjusted as needed to maintain sufficient quality of the printed products” as taught by Doherty at column 6, lines 3-7, and to adjust “the tone curve displayed on the display apparatus in response to displayed image manipulations entered via a manual command input device” as taught by Muramoto at column 1, lines 10-15.

With respect to claims 6 and 12, the Examiner admitted that Shiraishi fails to disclose platemaking data creating step is carried out for correcting the representative point information used in said PDL data creating step. The Examiner, however, averred that Akiyama discloses

image data creating process is carried out for correcting the representative point information used in said PDL data creating step(column 4, line 15-column 5, line 41). The Examiner maintained that it would have been obvious to one of ordinary skill in the art at the time the invention to modify the method and device for managing print colors as disclosed by Shiraishi to include a density indicator as taught by Akiyama, the color adjustment and controlling techniques as taught by Doherty, and apparatus for adjusting tone as taught by Muramoto for the benefit of having a “density indicator for indicating the optical density level at a reference point on an image through an image correction process such as a color correction and a tone correction” as taught by Akiyama at column 1, lines 2-7, and having an image processing system in which “the printing process is continuously monitored and the positions of the ink keys adjusted as needed to maintain sufficient quality of the printed products” as taught by Doherty at column 6, lines 3-7, and to adjust “the tone curve displayed on the display apparatus in response to displayed image manipulations entered via a manual command input device” as taught by Muramoto at column 1, lines 10-15.

Appellant’s Position

Claim 5 is dependent upon claim 1 and reproduced as follows:

5. A printing control method as defined in claim 1, wherein said image data creating process includes a PDL data creating step for creating PDL data, and a platemaking data creating step for creating platemaking data based on said PDL data created in said PDL data creating step, said PDL data creating step and said platemaking data creating step using common representative point information.

Appellant submits that the combination of Shiraishi, Akiyama, Doherty and Muramoto does not teach these additional requirements, nor have they been addressed in the Office Action. It is submitted, therefore, that the rejection of claim 5 is not viable for both the lack of disclosure

in the applied references of all requirements of parent claim 1, and for additionally recited elements.

Claim 6 is dependent upon claim 1 and reproduced as follows:

6. A printing control method as defined in claim 5, wherein said platemaking data creating step is carried out for correcting the representative point information used in said PDL data creating step.

While claim 6 dependent upon independent claim 1 is patentable owing to their dependences from patentable independent claim 1, claim 6 is separately patentable because the combination of Shiraishi, Akiyama, Doherty and Muramoto does not teach the platemaking data creating step is carried out for correcting the representative point information used in said PDL data creating step.

As disclosed in page 13, line 13-page 14, line 7 of the written description, when the representative points need to be changed for some reason or other, the representative points are changed in this platemaking data creating process 2. The representative points are changed by the operator 29 in charge of the platemaking data creating process 2, who operates the keyboard 22 and mouse 23 while looking at CRT 21. With a change in the positions of the representative points, the information on the color tones at the representative points in the representative point information is changed to information on the color tones of the positions corrected in the image data correcting step (step S22). The changed representative point information is combined with the image data for making prints, corrected in step S22, to form data for image creation. This data is stored again on the storage medium such as a hard disk or magneto-optical disk. These features, per claim 6, permit the platemaking data creating process to change positions of the representative point while taking into account the printing process based on the intents of color

tones controlled by the representative points set in the PDL data creating process, whereby prints with appropriately controlled color tones are obtained.

Akiyama, to which the Examiner referred as disclosing the limitations of claim 6 regarding “said platemaking data creating step is carried out for correcting the representative point information used in said PDL data creating step,” is silent on the limitations of claim 6.

Claim 11 is dependent upon claim 7 and is reproduced as follows:

11. An image data creating apparatus as defined in claim 7, further comprising: PDL data creating means for creating PDL data, and platemaking data creating means for creating platemaking data based on said PDL data created by said PDL data creating means, said PDL data creating means and said platemaking data creating means using common representative point information.

Appellant submits that the combination of Shiraishi, Akiyama, Doherty and Muramoto does not teach these additional requirements, nor have they been addressed in the Office Action. It is submitted, therefore, that the rejection of claim 11 is not viable for both the lack of disclosure in the applied references of all requirements of parent claim 7, and for additionally recited elements.

Claim 12 is dependent upon claim 7 and is reproduced as follows:

12. An image data creating apparatus as defined in claim 11, wherein said platemaking data creating means is arranged to correct the representative point information used by said PDL data creating means.

While claim 12 dependent upon independent claim 7 is patentable owing to its dependency from patentable independent claim 7, claim 12 is separately patentable because the combination of Shiraishi, Akiyama, Doherty and Muramoto does not teach the platemaking data creating step carried out for correcting the representative point information used in said PDL data creating step. Claim 12 recites the same limitations as recited in independent claim 6.

Accordingly, Appellant incorporates the arguments made in response to the rejection of independent claim 6. Appellant submits that the proposed combination of Shiraishi, Akiyama, Doherty and Muramoto does not teach an image data creating apparatus including all the limitations recited in dependent claim 12.

Conclusion

Based upon the foregoing, Appellants submit that the Examiner's rejections under 35 U.S.C. § 103 are not factually or legally viable. Appellants, therefore, respectfully solicit the Honorable Board to reverse the Examiner's rejections of claims 7 and 9-10 as obvious, as evidenced by Akiyama and Doherty; claims 1 and 3-4 as obvious, as evidenced by Shiraishi, Akiyama and Doherty; and claims 5-6 and 11-12 as obvious, as evidenced by Shiraishi, Akiyama, Doherty and Muramoto.

10/671,446

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Hosang Lee

Limited Recognition No. L00,295

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 SAB:HL:lcb
Facsimile: 202.756.8087
Date: July 15, 2008

**Please recognize our Customer No. 20277
as our correspondence address.**

CLAIMS APPENDIX

1. A printing control method for controlling color tones of prints in time of a printing operation having an image data creating process for creating image data for making the prints, and a printing process for performing printing based on the image data created in the image data creating process, wherein

said image data creating process includes:

a representative point setting step for setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine, for use in controlling color tones in images to be printed; and

a representative point information storing step for storing representative point information including information on the positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine; and

said printing process includes:

an information receiving step for receiving said representative point information along with said image data;

a printing execution step for executing printing based on said image data; and

a color tone controlling step for controlling an ink feeding rate, based on the differences between the color tones at the representative points and the target color tones, by comparing image data of the prints produced in said printing by comparing image data of the prints produced in said printing executing step and said representative points.

3. A printing control method as defined in claim 1, wherein said printing process is carried out for correcting the representative point information stored in said image data creating process.

4. A printing control method as defined in claim 1, further comprising: an image data correcting process for correcting said image data so that the color tones at the representative points set in said representative point setting step agree with target color tones; wherein said information receiving step is executed to receive said representative point information along with the image data corrected in said image data correcting process.

5. A printing control method as defined in claim 1, wherein said image data creating process includes a PDL data creating step for creating PDL data, and a platemaking data creating step for creating platemaking data based on said PDL data created in said PDL data creating step, said PDL data creating step and said platemaking data creating step using common representative point information.

6. A printing control method as defined in claim 5, wherein said platemaking data creating step is carried out for correcting the representative point information used in said PDL data creating step.

7. An image data creating apparatus for creating image data for producing prints, comprising:

representative point setting means for setting representative points with respect to areas on the image data corresponding to respective ink key areas of a printing machine, for use in controlling color tones in images to be printed; and

information storage means for storing, along with said image data, representative point information including information on positions of said representative points set with respect to areas on the image data corresponding to respective ink key areas of a printing machine,

wherein, in said controlling color tones, an ink feeding rate is controlled, based on differences between color tones at the representative points and target color tones, by comparing image data of the prints produced and said representative points.

9. An image data creating apparatus as defined in claim 7, wherein said representative point information stored in said information storage means is corrected.

10. An image data creating apparatus as defined in claim 7, further comprising: image data correcting means for correcting said image data so that color tones at the representative points agree with target color tones; wherein said information storage means is arranged to store said representative point information including said information on the positions of said representative points along with the image data corrected by said image data correcting means.

11. An image data creating apparatus as defined in claim 7, further comprising: PDL data creating means for creating PDL data, and platemaking data creating means for creating platemaking data based on said PDL data created by said PDL data creating means, said PDL data creating means and said platemaking data creating means using common representative point information.

12. An image data creating apparatus as defined in claim 11, wherein said platemaking data creating means is arranged to correct the representative point information used by said PDL data creating means.

EVIDENCE APPENDIX

No extrinsic evidence is relied on in this Appeal Brief.

RELATED PROCEEDINGS APPENDIX

Appellant is unaware of any related proceedings.

I. REAL PARTY IN INTEREST.....	1
II. RELATED APPEALS AND INTERFERENCES	1
III. STATUS OF CLAIMS	2
IV. STATUS OF AMENDMENTS.....	2
V. SUMMARY OF CLAIMED SUBJECT MATTER	2
VI. GROUNDS OF REJECTION TO BE REVIEWED BY APPEAL.....	4
VII. ARGUMENT	5
VIII. CONCLUSION.....	18
IX. CLAIMS APPENDIX	20
X. EVIDENCE APPENDIX.....	23
XI. RELATED PROCEEDINGS APPENDIX.....	24